

FILED

DEC 09 2016

Clerk, U.S. District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

CLYDE AMOS DAVIS, III,

Plaintiff,

vs.

BUTTE SILVER-BOW DETENTION
CENTER, ED LESTER, and DR.
GREER,

Defendants.

CV 16-00052-BU-BMM-JCL

FINDINGS AND RECOMMENDATIONS
OF UNITED STATES MAGISTRATE
JUDGE

On November 2, 2016, this Court issued an Order finding that Plaintiff Clyde Davis's Complaint failed to state a claim upon which relief may be granted. (Doc. 7.) Davis was given until December 2, 2016 to file an amended complaint. He failed to do so.

Accordingly, for the reasons set forth in the Court's prior Order (Doc. 7), the Court issues the following:

RECOMMENDATIONS

1. This matter should be dismissed with prejudice for failure to state a claim.

2. The Clerk of Court should be directed to close this matter and enter

judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

3. The Clerk of Court should be directed to have the docket reflect that this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g) based upon Mr. Davis's failure to state a claim.

4. The Clerk of Court should be directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith. The record makes plain the instant Complaint is frivolous as it lacks arguable substance in law or fact.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS &
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

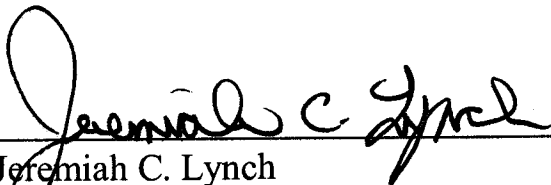
Mr. Davis may file objections to these Findings and Recommendations within fourteen (14) days after service (mailing) hereof.¹ 28 U.S.C. § 636. Failure to timely file written objections may bar a de novo determination by the district judge and/or waive the right to appeal.

This order is not immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Fed.R.App.P. 4(a), should not be filed

¹As this deadline allows a party to act after the Findings and Recommendations is "served," it falls under Fed.R.Civ.P. 6(d). Therefore, three (3) days are added after the period would otherwise expire.

until entry of the District Court's final judgment.

DATED this 9th day of December, 2016.



Jeremiah C. Lynch
United States Magistrate Judge